

GOVERNMENT OF TELANGANA
ABSTRACT

The Child and Adolescent Labour (Prohibition & Regulation) Act, 1986 (Central Act No.61 of 1986) – Amendment to the Telangana Child Labour (Prohibition and Regulation) Rules, 1995 – Preliminary Notification – Orders – Issued.

LABOUR EMPLOYMENT TRAINING & FACTORIES (LAB-I) DEPARTMENT

G.O.Ms.No. 30

Dated: 01-09-2021.

Read the following:-

1. The Telangana Child Labour (Prohibition and Regulation) Rules, 1995 issued in G.O.Ms.No.38, L.E.T and F (Lab.IV) Department, dated 18.10.1995.
2. The Child Labour (Prohibition and Regulation) Amendment Act, 2016 (Act No.35 of 2016) notified vide Gazette of India No.42, dated: 30.07.2016.
3. From the Commissioner of Labour, Telangana, Hyderabad, Lr.No.J1 / 1525 / 2020, dated: 13.10.2020.

ORDER:-

The Child Labour (Prohibition and Regulation) Act, 1986 (Central Act No.61 of 1986) has been amended by the Child Labour (Prohibition and Regulation) (Amendment) Act, 2016 (Central Act No.35 of 2016) to discourage the child and adolescent labour employment. The said amendment prohibits the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected therewith or incidental thereto. The scope of the Act, definition of 'Child and Adolescent Labour', 'Family enterprise', 'artist' were clearly explained to enforce the provisions relating to prohibition of employment and also to file complaints etc. The amendments Act also provide Education and Welfare of Child and Adolescent Labour. The said Act came into force with effect from 01.09.2016.

2. The Commissioner of Labour, Telangana, Hyderabad in his letter third read above has stated that, in view of the amendments made to the Child Labour (Prohibition and Regulation) Act, 1986 (Central Act No.61 of 1986) by the Child Labour (Prohibition and Regulation) (Amendment) Act, 2016 (Central Act No.35 of 2016), the Telangana Child Labour (Prohibition and Regulation) Rules, 1995 issued in the G.O. 1st read above are required to be amended and accordingly furnished the draft Telangana Child Labour (Prohibition and Regulation) (Amendment) Rules, 2021 for approval and inviting objections from general public and stakeholders.

3. Government, after careful examination of the matter hereby decided to amend the Telangana Child Labour (Prohibition and Regulation) Rules, 1995 and to issue Preliminary Notification inviting objections from general public and stakeholders in the matter.

4. Accordingly, the following notification shall be published in the Extraordinary Issue of the Telangana Gazette dated: 04.09.2021:-

PRELIMINARY NOTIFICATION

In exercise of the powers conferred by sub-section (1) of section 18 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (Central Act No.61 of 1986), the Government of Telangana hereby publish the draft Telangana Child Labour (Prohibition and Regulation) (Amendment) Rules, 2021 further to amend the Telangana Child Labour (Prohibition and Regulation) Rules, 1995 issued in G.O.Ms.No.38, L.E.T and F (Lab.IV) Department, dated 18.10.1995 in the Telangana Gazette, inviting objections and suggestions, if any, from general public and stakeholders.

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Notice is hereby given that the said draft rules will be taken into consideration by the Government after the expiry of a period of forty-five (45) days from the date of its publication in the Telangana Gazette and any objections or suggestions, which may be received from any person with respect to the said draft rules before the expiry of the aforesaid period, will be considered by the Government of Telangana.

The objections and suggestions should be addressed to the Special Chief Secretary to Government, Labour, Employment, Training and Factories Department, Telangana Secretariat, Hyderabad through the Commissioner of Labour, T.Anjaiah Bhavan, RTC 'X' Roads, Hyderabad, Telangana.

DRAFT RULES

1. (1) These Rules may be called the Telangana Child Labour (Prohibition and Regulation) (Amendment) Rules, 2021.

- (2) They shall come into force on the date of their final publication in the Telangana Gazette.

2. In the Telangana Child Labour (Prohibition and Regulation) Rules, 1995 (hereinafter referred to as the principal rules), in rule 1, in sub-rule (1), for the words "Child Labour", the words "Child and Adolescent Labour" shall be substituted.

3. In rule 2 of the principal rules,-

- (i) for clause (a), the following clause shall be substituted, namely:-

"(a) "Act" means the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (Central Act 61 of 1986);";

- (ii) clause (b) shall be omitted;

- (iii) after clause (c), the following clause shall be inserted, namely:-

"(cc) "Schedule" means the Schedule to the Act;";

- (iv) after clause (e), the following clause shall be inserted, namely:-

"(ee) "Fund" means the Child and Adolescent Labour Rehabilitation Fund constituted under sub-section (1) of section 14B of the Act;";

- (v) after clause (k), the following clauses shall be inserted, namely-

"(l) "medical authority" means a Government medical doctor not below the rank of Civil Assistant Surgeon of a District or a regular doctor of equivalent rank employed in Employees' State Insurance dispensaries or hospitals;

(m) Words and expressions used in these rules, but not defined therein and defined in the Act, shall have the meanings as assigned to them in the Act."

4. After rule 2 of the principal rules, the following rules shall be inserted, namely:-

"2A. Awareness on prohibition of employment of child and adolescents in contravention to Act.-

The State Government, to ensure that the children and adolescents are not employed or permitted to work in any occupation or process in contravention to the provisions of the Act, through appropriate measures, shall –

- (a) arrange public awareness campaigns using folk and traditional media and mass media including television, radio, internet based application and the print media to make the general public, including the employers and the children and adolescents who may be employed in contravention to the provisions of the Act, aware about the provisions of the Act, and thereby discourage employers or other persons from engaging children and adolescents in any occupation or process in contravention of the provisions of the Act;
- (b) promote reporting of enterprises or instances of employment of children or adolescents in contravention to the provisions of the Act, by developing and advertising easily accessible means of communication to authorities specified by the State Government;
- (c) display to the possible extent the provisions of the Act, these Rules and any other information relating thereto in railway coaches, at railway stations, major bus stations, toll plazas, ports and port authorities, airports and other public places including shopping centres, markets, cinema halls, hotels, hospitals, panchayath offices, police stations, resident welfare association offices, industrial areas, schools, educational institutions, court complexes, and offices of all authorities authorised under the Act;
- (d) promote through appropriate method the inclusion of the provisions of the Act in learning material and syllabus in school education; and
- (e) promote inclusion of training and sensitisation material on the provisions of the Act and the responsibilities of various stakeholders thereto, in State Labour Service, police, judicial and civil service academies, teachers training and refresher courses and arrange sensitisation programmes for other relevant stakeholders including, panchayath members, doctors and concerned officials of the Government.
- (f) Promote all possible activities which shall be of use in prevention, rescue and rehabilitation of working children and adolescents.

2B. Child to help his family without affecting education.–

(1) Subject to the provisions of section 3, a child may, without affecting his school education, in any manner, –

- (a) help his family in his family enterprise, subject to the condition that such help, –
 - (i) shall not be in any hazardous occupation or process listed in Part A and Part B of the Schedule to the Act;
 - (ii) shall not include work or occupation or process at any stage of the manufacturing, production, supply or retail chain that is remunerative for the child or his family or the family enterprise;
 - (iii) shall only be allowed to help in his family, or in a family enterprise, where his family is the occupier;
 - (iv) shall not perform any tasks during school hours and between 7 p.m. and 8 a.m.;

- (v) shall not be engaged in such tasks of helping which hinders or interferes with the right to education of the child, or his attendance in the school, or which may adversely affect his education including activities which are inseparably associated to complete education such as homework or any extra-curricular activity assigned to him by the school;
- (vi) shall not be engaged in any task continuously without rest which may make him tired and shall be allowed to take rest to refresh his health and mind, and a child shall not help for more than three hours excluding the period of rest in a day;
- (vii) shall not include in anyway substitution of the child for an adult or adolescent while helping his family or family enterprise; and
- (viii) shall not be in contravention to any other law for the time being in force;
- (b) aid or assist his family in such manner which is not incidental to any occupation, work, profession, manufacture or business, or for any payment or benefit to the child or any other person exercising control over the child, and which is not detrimental to the growth, education and overall development of the child.

Explanation 1.- For the purposes of this rule, only –

- (a) biological brother and sister of the child;
- (b) brother or sister of the child through lawful adoption by parents of the child; and
- (c) biological brother and sister of parents of the child, shall be included for comprising the family of a child.

Explanation 2.- For the purposes of Explanation 1, it is hereby clarified that preliminarily, any doubt as to whether a person is a biological brother or sister, may be removed by examining the pedigree of such person issued by the concerned Local Authority as the case may be, or any other legal document issued by concerned authority of the appropriate Government.

- (2) Where a child receiving education in a school remains absent consecutively for thirty days without intimation to the Principal or Head Master of the school, then, the Principal or Head Master shall report such absence to the concerned nodal officer referred to in clause (i) of sub-rule (1) of rule 17C for information.

2C. Child to work as an artist.–

- (1) Subject to the provisions of section 3, a child may be allowed to work as an artist subject to the following conditions, namely: –
 - (a) No child shall be allowed to work for more than five hours in a day, and for not more than three hours without rest;
 - (b) Any producer of any audio–visual media production or any commercial event involving the participation of a child, shall involve a child in participation only after obtaining the permission from the District Magistrate of the district where the activity is to be performed, and shall furnish to the District Magistrate before starting the activity an undertaking in Form ‘E’ and the list of child participants, consent of parents or guardian, as the case may be, name of the individual from the production or event who shall be responsible for the safety and security of the child, and ensure that all screening of his films and television programmes shall be made with a disclaimer specifying that if any child has been engaged in the shooting, then, all the measures were taken to ensure that there has been no abuse, neglect or exploitation of such child during the entire process of the shooting;

- (c) the undertaking referred to in clause (b) shall be valid for six months and shall clearly state the provisions for education, safety, security and reporting of child abuse in consonance with the guidelines and protection policies issued by the State Government from time to time for such purpose including-
- (i) ensuring facilities for physical and mental health of the child;
 - (ii) timely nutritional diet of the child;
 - (iii) safe, clean shelter with sufficient provisions for daily necessities; and
 - (iv) compliance to all laws applicable for the time being in force for the protection of children, including their right to education, care and protection, and against sexual offences;
- (d) appropriate facilities for education of the child to be arranged so as to ensure that there is no discontinuity from his lessons in school and no child shall be allowed to work consecutively for more than twenty-seven days;
- (e) one responsible person be appointed for maximum of five children for the production or event, so as to ensure the protection, care and best interest of the child;
- (f) at least twenty per cent of the income earned by the child from the production or event to be directly deposited in a fixed deposit account in a nationalised bank in the name of the child which may be credited to the child on attaining majority; and
- (g) no child shall be made to participate in any audio-visual and sports activity including informal entertainment activity against his will and consent.
- (2) For the purposes of clause (c) to the Explanation to sub-section (2) of section 3, the expression “such other activity” contained therein, shall mean.–
- (i) any activity where the child himself is participating in a sports competition or event or training for such sports competition or event;
 - (ii) cinema and documentary shows on television including reality shows, quiz shows, talent shows, radio and any programme in or any other media;
 - (iii) drama serials;
 - (iv) participation as anchor of a show or events; and
 - (v) any other artistic performances which the State Government permits in individual cases, which shall not include street performance for monetary gain”.
- 5.** In rule 3 of the principal rules, in sub-rule (1), for the word ‘child’, the word ‘adolescent’ shall be substituted.
- 6.** In rule 4 of the principal rules, in sub-rule (1), for the word ‘child’, the word ‘adolescent’ shall be substituted.
- 7.** In rule 5 of the principal rules, for the word ‘child’, the word ‘adolescent’ shall be substituted.
- 8.** In rule 8 of the principal rules, in sub-rule (1), for the word ‘children’, the word ‘adolescents’ shall be substituted.
- 9.** In rule 10 of the principal rules, in sub-rule (1), for the word ‘child’, the word ‘adolescent’ shall be substituted.

10. In rule 11 of the principal rules, in sub-rule (1), for the word ‘children’, the word ‘adolescents’ shall be substituted.

11. In rule 12 of the principal rules, for the word ‘child’, the word ‘adolescent’ shall be substituted.

12. In rule 13 of the principal rules, in sub-rule (1),-

(a) for the word ‘children’, the word ‘adolescents’ shall be substituted;

(b) for the word ‘child’, the word ‘adolescent’ shall be substituted.

13. In rule 14 of the principal rules, for the word ‘child’, the word ‘adolescent’ shall be substituted.

14. For rule 15 of the principal rules, the following rule shall be substituted, namely:-

“15. Hours of work:- Subject to the provisions of section 7, no adolescent shall be required or permitted to work in an establishment in excess of such number of hours of work as is permissible under the law for the time being in force regulating the hours of work of the adolescent in such establishment.”.

15. In rule 16 of the principal rules, for the word ‘child’, the word ‘adolescent’ shall be substituted.

16. In rule 17 of the principal rules,-

(i) in sub-rule (1), for the word ‘child’, the word ‘adolescent’ shall be substituted.

(ii) in sub-rule (2), for the word ‘child’, the word ‘adolescent’ shall be substituted.

(iii) in sub-rule (3), for the word ‘child’, the word ‘adolescent’ shall be substituted.

17. In rule 18 of the principal rules, in sub-rule (1), for the word ‘child’, the word ‘adolescent’ shall be substituted.

18. For rule 19 of the principal rules, the following rule shall be substituted, namely:-

“19. Certificate of age: (1) Where an Inspector has an apprehension that any adolescent has been employed in any of the occupation or processes in which he is prohibited to be employed under section 3A of the Act, he may require the employer of such adolescent to produce to the Inspector a certificate of age from the appropriate medical authority.

(2) The appropriate medical authority shall, while examining an adolescent for issuing the certificate of age under sub-rule (1), take into account –

(i) The Aadhar card of the adolescent, and in the absence thereof;

(ii) The date of birth certificate from school or the matriculation or equivalent certificate from the concerned examination Board of the adolescent, if available, and in the absence thereof;

(iii) The birth certificate of the adolescent given by a corporation or a Local Authority;

and only in the absence of any of the methods specified in clauses (i) to (iii), the age shall be determined by such medical authority through an ossification test or any other latest medical age determination test.

(3) The ossification test or any other latest medical age determination test shall be conducted on the order of the appropriate authority of the rank of Joint Commissioner of Labour, as may be specified by the State Government in this behalf, and such determination shall be completed within fifteen days from the date of such order.

(4) The certificate of age referred to in sub-rule(1) shall be issued in Form 'A'.

(5) The charges payable to the medical authority for the issue of the certificate of age shall be same as specified by the State Government as the case may be, for their Medical Boards.

(6) The charges payable to the medical authority shall be borne by the employer of the adolescent whose age is determined under this rule.

19. In rule 20 of the principal rules, for the word 'children', the word 'adolescents' shall be substituted.

20. In rule 21 of the principal rules, for the word 'child', the word 'adolescent' shall be substituted.

21. After rule 22 of the principal rules, the following rules shall be inserted, namely:-

"22A. Powers and Duties of District Magistrate:- (1) The District Magistrate shall –

- (i) specify such officers subordinate to him, as he considers necessary, to be called nodal officers, who shall exercise all or any of the powers and perform all or any of the duties of the District Magistrate conferred and imposed on him by the State Government under section 17A;
- (ii) assign such powers and duties, as he thinks appropriate, to a nodal officer to be exercised and performed by him within his local limits of jurisdiction as subordinate officer;
- (iii) preside over as chairperson of the Task Force to be formed in a district consisting of –
 - (a) Inspector appointed under section 17 for the purposes of his local limits of jurisdiction;
 - (b) Superintendent of Police for the purposes of his local limits of jurisdiction;
 - (c) Additional District Magistrate for the purposes of his local limits of jurisdiction;
 - (d) nodal officer referred to under clause (i) for the purposes of his local limits of jurisdiction;
 - (e) Assistant Labour Commissioner (State) for the purposes of his local limits of jurisdiction;
 - (f) two representatives each from a voluntary organisation involved in rescue and rehabilitation of employed children in the district on rotation basis for a period of two years;

- (g) a representative of the District Legal Services Authority to be nominated by the District Judge;
- (h) a member of the District Anti-trafficking Unit;
- (i) Chairperson of the Child Welfare Committee of the District;
- (j) District Child Protection Officer in the District under the Integrated Child Protection Scheme of the Ministry of the Government of India dealing with women and child development;
- (k) District Education Officer;
- (l) any other person nominated by the District Magistrate;
- (m) Secretary of the Task Force shall be any of the nodal officers referred to in clause (i) and nominated by the Chairperson.

(2) The Task Force referred to in clause (iii) of sub-rule (1) shall meet at least once in every month and shall make a comprehensive action plan for conducting the rescue operation, taking into account the time available, point of raid in accordance with the law for the time being in force, confidentiality of the plan, protection of victims and witnesses and the interim relief, in accordance with the guidelines for rescue and repatriation issued by the State Government from time to time; and the Task Force shall also cause to upload the minutes of such meeting on the portal created for such purpose by the State Government.

(3) In addition to the duties referred to in sub-rule (1), the District Magistrate shall ensure through nodal officers that the children and adolescents who are employed in contravention of the provisions of the Act are rescued and shall be rehabilitated –

(a) in accordance with the provisions of –

- (i) the Juvenile Justice (Care and Protection of Children) Act, 2015 (Central Act No.2 of 2016) and the Rules made there under;
- (ii) the Bonded Labour System (Abolition) Act, 1976 (Central Act No.19 of 1976);
- (iii) the State Sector Scheme for Rehabilitation of Bonded Labourers, 2016;
- (iv) any National Child Labour Project;
- (v) any other law or scheme for the time being in force under which such children or adolescents may be rehabilitated; and subject to –
 - (I) the directions, if any, of a court of competent jurisdiction;
 - (II) the guidelines for rescue and repatriation issued by the State Government from time to time in this regard.

22B. Payment of amount to child or adolescent from and out of Child and Adolescent Labour Rehabilitation Fund: (1) The amount credited, deposited or invested, as the case may be, under sub-section (3) of section 14B, to the Child and Adolescent Labour Rehabilitation Fund and the interest accrued on it, shall be paid to the child or adolescent in whose favour such amount is credited in the following manner, namely:-

- (i) the Inspector or the nodal officer having jurisdiction shall, under his supervision, ensure that an account of such child or adolescent is opened in a nationalised bank and inform the bank in which the amount of the Fund is deposited or, as the case may be, to the officer responsible to invest the amount of the Fund under sub-section (3) of section 14B;
- (ii) the interest accrued on the proportionate amount of the Fund in favour of the child or adolescent shall be transferred every six months to the account of the child or adolescent, as the case may be, by the bank or officer responsible to invest the amount under information to the Inspector;
- (iii) when the concerned child or adolescent completes the age of eighteen years, then, as soon as may be possible forthwith or within a period of three months, the total amount credited, deposited or invested in favour of the child along with interest accrued thereon including the interest remaining in the bank or remaining so invested under sub-section (3) of section 14B, shall be transferred to the said bank account of child or adolescent, as the case may be; and
- (iv) the Inspector shall prepare a report of the amount transferred under clause (ii) and clause (iii) with particulars of the concerned child or adolescent sufficient to identify him and send a copy of the report annually to the State Government for information.

(2) Any amount recovered by way of fine or for composition of offences in pursuance of an order or judgement of a Court in favour of a child or adolescent for the contravention of the provisions of the Act, shall also be deposited in the Fund and shall be spent in accordance with such order or judgement.

22C. Periodical inspection and monitoring:- The Commissioner of Labour shall create a system of monitoring and inspection for carrying into effect the provisions of section 17, which may include—

- (i) the number of periodical inspection to be conducted by the Inspector of the places at which the employment of adolescents is prohibited and hazardous occupations or processes are carried out;
- (ii) the intervals at which an Inspector shall report to the State Government complaints received to him relating to the subject matter of inspection under clause (i) and the details of action taken by him thereafter;
- (iii) maintenance of record electronically or otherwise of-
 - (a) children and adolescent found to be working in contravention of the provisions of the Act including children who are found to be engaged in family or family enterprises in contravention of the Act;
 - (b) number and details of the offences compounded;
 - (c) details of compounding amount imposed and recovered; and
 - (d) details of rehabilitation services provided to children and adolescents under the Act.”.

22. After rule 23 of the principal rules, the following rules shall be inserted, namely,

“23A. Persons who may file complaint:- Any person who may file a complaint under the Act for commission of any offence include school teachers and representatives from school management committee, child protection committee, Panchayath or Municipality, who shall be sensitised to file complaint, in the event that any of students in their respective schools is employed in contravention to the provisions of the Act.

23B. Manner of compounding offences:-

(1) An accused person,-

(i) who commits an offence for the first time under sub-section (3) of section 14;
or

(ii) who being parent or a guardian, commits an offence under the said section,
may file an application to the District Magistrate having jurisdiction for
compounding the offence under sub-section (1) of section 14D.

(2) The District Magistrate shall after hearing the accused person and the
Inspector concerned, on an application filed under sub-rule (1), dispose of such
application, and if the application is allowed, issue the certificate of
compounding, subject to –

(i) the payment of a sum of fifty per cent of the maximum fine provided for such
offence within a time specified in such certificate; or

(ii) the payment of an additional sum of twenty-five percent of the maximum
fine provided for such offence together with the compounding amount
specified under clause (i), if the accused person fails to pay the
compounding amount under the said clause within the specified time, and
such delayed payment shall also be made within the period specified by the
District Magistrate for such purpose in the certificate of compounding.

(3) The compounding amount shall be paid by the accused person to the
State Government.

(4) If the accused person fails to pay the compounding amount under sub-
rule (2), then, the proceeding shall be continued as specified under sub-section
(2) of section 14D.”.

23. In Form ‘B’ appended to the principal rules, at column 2 of the table, for the
word ‘child’, the word ‘adolescent’ shall be substituted.

24. In Form ‘C’ appended to the principal rules, in the address entry, for the word
‘child’, the word ‘adolescent’ shall be substituted.

25. In Form ‘D’ appended to the principal rules, in the annexure at column 1 of the
table, for the word ‘child’, the word ‘adolescent’ shall be substituted.

26. After Form ‘D’ appended to the principal rules, the following Form ‘E’ shall be
inserted, namely:-

FORM ‘E’
(See Rule 2C(1)(b))

**Undertaking under Rule 2C (1)(b) of the
Telangana Child and Adolescent Labour (Prohibition and Regulation) Rules,
1995.**

I.....Producer of an
audio visual media production or organiser of
.....a commercial event,
involving the participation of the following child / children, namely:-

Sl.No. Name of the Child/Children Parent's/ Guardian's Name
Address do hereby undertake that in the course of the involvement of the above mentioned child/children in the event (specify the event), there shall be no violation of any of the provisions of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (Central Act No.61 of 1986) and the Telangana Child and Adolescent Labour (Prohibition and Regulation) Rules, 1995 and full care shall be taken of the physical and mental health, and other requirements of the child/ children, so that he/ they feel no inconvenience. I also undertake that during the event, all laws applicable for the time being in force for the protection of children, including their right to education, care and protection, and legal provisions against sexual offences will be fully complied, without any deviation.

Dated:.....

Name, Full Address and

Signature of the Producer.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

I.RANI KUMUDINI,
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To

The Commissioner of Printing, Stationary and
Stores purchases (PW), Chanchalguda, Hyderabad
(for publication in the Gazette and supply of 100 copies
to the Commissioner of Labour, Telangana, Hyderabad
and 100 copies to Government).

The Commissioner of Labour, Telangana, Hyderabad.

Copy to:

The Under Secretary to the Government of India,
Ministry of Labour & Employment, (Child Labour "Section"),
Shram Shakti Bhawan, Rafi Marg, New Delhi-110001.

The Secretary to Chief Minister.

The P.S. to Minister (Labour & Employment).

The Law (B) Department.

S/f and S/c.

// FORWARDED :: BY ORDER //

SECTION OFFICER